

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHNATHAN HILL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

NO. CR95-0174JET

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion for Writ of Error *Audita Querela*.

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Defendant seeks re-sentencing by way of a Writ of *Audita Querela* based upon United States v. Booker, 125 S.Ct. 738 (January 12, 2005). The Defendant was sentenced on July 12, 1996 to 235 months in custody after a plea of guilty to being a felon in possession of a firearm. He appealed, and his conviction became final sometime thereafter, but prior to the decision in Booker.

Booker does not apply retroactively to cases that became final prior to January 12, 2005. Guzman v. United States, 2005 WL 80324 (2d Cir. (N.Y.)). Accordingly, it is hereby

ORDERED that Defendant's Motion for Writ of Error *Audita Querela* is DENIED.

1 The clerk of the court is instructed to send uncertified copies of this Order to all counsel of
2 record.

3 DATED this 12th of May, 2005.

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5 /s JACK E. TANNER

6 JACK E. TANNER
7 SR. UNITED STATES DISTRICT JUDGE
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